

(A) The inventions must be independent (see MPEP Section 802.01 Section 806.04, Section 808.01) or distinct as claimed (see MPEP Section 806.05 - Section 806.05(i)); and

(B) There must be a serious burden on the examiner if restriction is required (see MPEP Section 803.02 Section 806.04(a) - Section 806.04(i), Section 808.01(a), and Section 808.02).

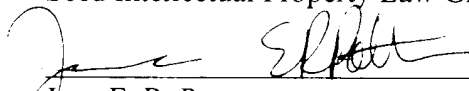
The subject matter SEQ ID NO:463-468 and 474, represent sequences that are related one to the other. As detailed on page 122 of the instant specification, these polynucleotides represent full-length or splice variants of the full-length breast tumor antigen, B726P. Accordingly, Applicants submit that the first requirement for restriction is not met by the presently elected invention since the polynucleotides all relate to the same breast tumor gene.

Applicants further submit that no undue search burden would arise with respect to a search of SEQ ID NO:463-468 in conjunction with 474. As the Examiner points out on page 7, section 9 of the pending Restriction Requirement, "[t]he search of no more than one sequence . . . may include subsequences within the selected sequences." In the present application, the polynucleotides of SEQ ID NO:463-468 as well as elected species 474 are related one to the other in nucleic acid sequence. Accordingly, a search of SEQ ID NO:474 will necessarily identify sequences related to SEQ ID NO:463-468 and, accordingly, Applicants respectfully submit that it would not constitute an undue burden on the Examiner to search each of these sequences for a single patent application. Thus, Applicants believe that each of SEQ ID NO:463-468 and 474 may be properly combined in a single application in accordance with the requirements of 35 U.S.C. 121 and 37 C.F.R. section 1.141.

In view of the above remarks, Applicants believe that the application is now in condition for substantive review on the merits.

Respectfully submitted,

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